

EXHIBIT

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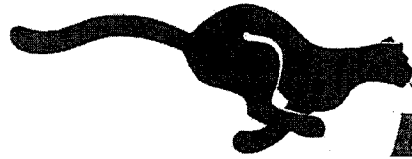
DATE

2.18.2011

HB

579

**Mountain**



**Line**

January 14, 2011

Honorable Michele Reinhart  
House District 97  
PO Box 5945  
Missoula, Mt 59806

*M. Reinhart*  
Dear Ms. Reinhart:

Attached is information for a proposed bill regarding an Employer Testing Program for Montana. The envisioned Employer Testing Program is a third-party testing program in which the Department of Motor Vehicles (DMV) allows employers of commercial drivers to conduct the drive test portion of the department's commercial driver licensing requirements.

I am currently in the process of discussing this proposed bill with DMV and would enjoy discussing the proposal with you at your convenience.

Sincerely,

Michael Tree  
General Manager

**Missoula Urban Transportation District**

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## Proposed Employer Testing Program

### Reason for Proposed Program

Each year employers around the state have a need for new employees to obtain a commercial drivers license to operate company vehicles. Some employers, such as school districts or transit organizations, might need to assist 10 or more new employees at a given time. The process of completing all testing procedures through the Department of Motor Vehicles (DMV) can be both a burden on the employer and the DMV.

### *Example*

The Associated Students of the University of Montana (ASUM) operate a bus system both on campus and in the adjacent area. Last year they hired 14 new students and needed to work with the DMV to schedule the various phases of testing so that the students obtained their Class B licenses before a given date. At the same time, Beach Transportation, the local school bus provider, was also working with the DMV to license their new employees before a critical date. The accumulation of both employers' needs, in addition to the ongoing routine business at the DMV, provided increase congestion and difficulty in managing the licensing process.

### How It Might Work

The attached proposed Employer Testing Program language will provide the ability for the DMV to establish a program that will allow for the department to waive the drive test for commercial drivers if the employers of these drivers have certified that they are qualified to drive commercial vehicles. The DMV gives the authority to certify drivers to employers who would qualify for the program.

If the DMV has authorized an employer's participation in the Employer Testing Program, the employer may certify their drivers that the organization has trained, tested, and currently employs. Upon successful completion of the drive test portion of the CDL examination conducted by the employer's examiner, the employer may give the driver a Certificate of Driving Skill, which the DMV may accept in place of the DMV driving test.

### Authority

The authority to establish and administer the program is contained in Title 49 of the Code of Federal Regulations, Part 383.75, which allows the state to use third party testers to conduct the commercial behind the wheel driving test under specific conditions.

### Proposed Pre-Requisites

- The employer requesting participation in the Employer Testing Program must be engaged in an activity that includes the use of vehicles requiring its employees to possess a valid Class A or Class B Commercial Driver License.

- The employer must have a terminal in Montana where business is conducted, driving tests are conducted, and Employer Testing Program records are kept.

#### Ongoing Requirements

- Allow DMV and the Federal Motor Carrier Safety Administration to evaluate the employer's driving test for compliance with required standards.
- Keep testing and training records for each driver given a certificate of driving skill.
- Allow DMV and Federal Motor Carrier Safety Administration to conduct annual and/or random on-site inspections or audits.
- Give drive tests that are the same as DMV.
- Have an agreement with DMV.
- Have examiners that meet DMV training requirements.
- Allow DMV to charge a fee that will defray the costs of the program.

#### Employer Roles and Responsibilities

- Ensure that each driver hired who is an original commercial driver license applicant or is upgrading his or her commercial status, must be given a commercial driving test equivalent to the test given the DMV. The drive test must include a pre-trip inspection, skills test, and road test.
- Abide by provisions established and governed by the Employer Testing Program.
- Designate an administrator, and one or more examiners.
- Ensure that all drivers are provided specified commercial driver training prior to certification.
- Pay fees established by DMV to administer the program.

Prior to allowing an examiner to conduct a commercial drive test employer would ensure:

- The examiner has received and continues to have DMV eligibility to administer drive tests for the specified class of license for which the test is being administered.
- A written contract is entered into with all new examiners at the time of appointment, and with existing examiners at the time of Employer Testing Program renewal.
- The drivers the employer certifies are employees.

### Proposed Vehicle Code Language

A person may not be issued a commercial driver's license until he or she has passed a written and driving test for the operation of a commercial motor vehicle which complies with the minimum federal standards established by the federal Commercial Motor Vehicle Safety Act of 1986 (P.L. 99-570) and Part 383 of Title 49 of the Code of Federal Regulations, and has satisfied all other requirements of that act as well as any other requirements imposed by this code.

The tests shall be prescribed and conducted by or under the direction of the department. The department may allow a third-party tester to administer the driving test part of the examination required under this section and Section 15275 if all of the following conditions are met:

- (1) The tests given by the third party are the same as those that would otherwise be given by the department.
- (2) The third party has an agreement with the department that includes, but is not limited to, the following provisions:
  - (a) Authorization for the United States Secretary of Transportation, or his or her representative, and the department, or its representative, to conduct random examinations, inspections, and audits without prior notice.
  - (b) Permission for the department, or its representative, to conduct onsite inspections at least annually.
  - (c) A requirement that all third-party testers meet the same qualification and training standards as the department's examiners, to the extent necessary to conduct the driving skill tests in compliance with the requirements of Part 383 of Title 49 of the Code of Federal Regulations.
  - (d) The department may cancel, suspend, or revoke the agreement with a third-party tester if the third-party tester fails to comply with the standards for the commercial driver's license testing program, or with any other term of the third-party agreement, upon 15 days' prior written notice of the action to cancel, suspend, or revoke the agreement by the department to the third party. Any action to appeal or review any order of the department canceling, suspending, or revoking a third-party testing agreement shall be brought in a court of competent jurisdiction, or as otherwise permitted by the laws of this state. The action shall be commenced within 90 days from the effective date of the order.
  - (e) A revocation of a third-party testing agreement pursuant to subparagraph (d) shall be for a term of not less than one year. A third-party tester may apply for a new third-party testing agreement after the

period of revocation and upon submission of proof of correction of the circumstances causing the revocation.

Authorization for the department to charge the third-party tester a fee, as determined by the department, which is sufficient to defray the actual costs incurred by the department for administering and evaluating the third-party testing program, and for carrying out any other activities deemed necessary by the department to ensure sufficient training for the drivers participating in the program.

The tests given by the third party shall not be accepted in lieu of tests prescribed and conducted by the department if the applicant operates or will operate a tour bus.

Commercial driver's license applicants who take and pass driving tests administered by a third party shall provide the department with certificates of driving skill satisfactory to the department that the applicant has successfully passed the driving tests administered by the third party.

Implementation dates for the issuance of a commercial driver's license pursuant to this chapter may be established by the department as it determines is necessary to accomplish an orderly commercial driver's license program.